

109TH CONGRESS
1ST SESSION

S. 1444

To amend the Trade Act of 1974 to provide for alternative means of certifying workers for adjustment assistance on an industry-wide basis.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2005

Mr. BAUCUS (for himself and Mr. COLEMAN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Trade Act of 1974 to provide for alternative means of certifying workers for adjustment assistance on an industry-wide basis.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trade Adjustment As-
5 sistance for Industries Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Trade Adjustment Assistance assists work-
9 ers and agricultural commodity producers who lose
10 their jobs for trade-related reasons to retrain, gain

1 new skills, and find new jobs in growing sectors of
2 the economy.

3 (2) The total cost of providing adjustment as-
4 sistance represents a tiny fraction of the gains to the
5 United States economy as a whole that economists
6 attribute to trade liberalization.

7 (3) In circumstances where, due to changes in
8 market conditions caused by the implementation of
9 bilateral or multilateral free trade agreements, un-
10 fair trade practices, unforeseen import surges, and
11 other reasons, import competition creates industry-
12 wide effects on domestic workers or agricultural
13 commodity producers, the current process of assess-
14 ing eligibility for trade adjustment assistance on a
15 plant-by-plant basis is inefficient and can lead to un-
16 fair and inconsistent results.

17 **SEC. 3. OTHER METHODS OF REQUESTING INVESTIGATION.**

18 Section 221 of the Trade Act of 1974 (19 U.S.C.
19 2271) is amended—

20 (1) by adding at the end the following:

21 “(c) OTHER METHODS OF INITIATING A PETITION.—

22 Upon the request of the President or the United States
23 Trade Representative, or the resolution of either the Com-
24 mittee on Ways and Means of the House of Representa-
25 tives or the Committee on Finance of the Senate, the Sec-

1 retary shall promptly initiate an investigation under this
 2 chapter to determine the eligibility for adjustment assist-
 3 ance of—

4 “(1) a group of workers (which may include
 5 workers from more than one facility or employer); or

6 “(2) all workers in an occupation as that occu-
 7 pation is defined in the Bureau of Labor Statistics
 8 Standard Occupational Classification System.”;

9 (2) in subsection (a)(2), by inserting “or a re-
 10 quest or resolution filed under subsection (c),” after
 11 “paragraph (1),”; and

12 (3) in subsection (a)(3), by inserting “, request,
 13 or resolution” after “petition” each place it appears.

14 **SEC. 4. NOTIFICATION.**

15 Section 224 of the Trade Act of 1974 (19 U.S.C.
 16 2274) is amended to read as follows:

17 **“SEC. 224. NOTIFICATIONS REGARDING AFFIRMATIVE DE-**
 18 **TERMINATIONS AND SAFEGUARDS.**

19 “(a) NOTIFICATIONS REGARDING CHAPTER 1 INVES-
 20 TIGATIONS AND DETERMINATIONS.—Whenever the Inter-
 21 national Trade Commission makes a report under section
 22 202(f) containing an affirmative finding regarding serious
 23 injury, or the threat thereof, to a domestic industry, the
 24 Commission shall immediately—

1 “(1) notify the Secretary of Labor of that find-
2 ing; and

3 “(2) in the case of a finding with respect to an
4 agricultural commodity, as defined in section 291,
5 notify the Secretary of Agriculture of that finding.

6 “(b) NOTIFICATION REGARDING BILATERAL SAFE-
7 GUARDS.—The International Trade Commission shall im-
8 mediately notify the Secretary of Labor and, in an inves-
9 tigation with respect to an agricultural commodity, the
10 Secretary of Agriculture, whenever the Commission makes
11 an affirmative determination pursuant to one of the fol-
12 lowing provisions:

13 “(1) Section 421 of the Trade Act of 1974 (19
14 U.S.C. 2451).

15 “(2) Section 312 of the United States-Australia
16 Free Trade Agreement Implementation Act (19
17 U.S.C. 3805 note).

18 “(3) Section 312 of the United States-Morocco
19 Free Trade Agreement Implementation Act (19
20 U.S.C. 3805 note).

21 “(4) Section 312 of the United States-Singa-
22 pore Free Trade Agreement Implementation Act (19
23 U.S.C. 3805 note).

1 “(5) Section 312 of the United States-Chile
2 Free Trade Agreement Implementation Act (19
3 U.S.C. 3805 note).

4 “(6) Section 302(b) of the North American
5 Free Trade Agreement Implementation Act (19
6 U.S.C. 3352(b)).

7 “(7) Section 212 of the United States-Jordan
8 Free Trade Agreement Implementation Act (19
9 U.S.C. 2112).

10 “(c) AGRICULTURAL SAFEGUARDS.—The Commis-
11 sioner of Customs shall immediately notify the Secretary
12 of Labor and, in the case of an agricultural commodity,
13 the Secretary of Agriculture, whenever the Commissioner
14 of Customs assesses additional duties on a product pursu-
15 ant to one of the following provisions:

16 “(1) Section 202 of the United States-Australia
17 Free Trade Agreement Implementation Act (19
18 U.S.C. 3805 note).

19 “(2) Section 202 of the United States-Morocco
20 Free Trade Agreement Implementation Act (19
21 U.S.C. 3805 note).

22 “(3) Section 201(c) of the United States-Chile
23 Free Trade Agreement Implementation Act (19
24 U.S.C. 3805 note).

1 “(4) Section 309 of the North American Free
2 Trade Agreement Implementation Act (19 U.S.C.
3 3358).

4 “(5) Section 301(a) of the United States-Can-
5 ada Free Trade Agreement Implementation Act of
6 1988 (19 U.S.C. 2112 note).

7 “(6) Section 404 of the United States-Israel
8 Free Trade Agreement Implementation Act (19
9 U.S.C. 2112 note).

10 “(d) TEXTILE SAFEGUARDS.—The President shall
11 immediately notify the Secretary of Labor whenever the
12 President makes a positive determination pursuant to one
13 of the following provisions:

14 “(1) Section 322 of the United States-Australia
15 Free Trade Agreement Implementation Act (19
16 U.S.C. 3805 note).

17 “(2) Section 322 of the United States-Morocco
18 Free Trade Agreement Implementation Act (19
19 U.S.C. 3805 note).

20 “(3) Section 322 of the United States-Chile
21 Free Trade Agreement Implementation Act (19
22 U.S.C. 3805 note).

23 “(4) Section 322 of the United States-Singa-
24 pore Free Trade Agreement Implementation Act (19
25 U.S.C. 3805 note).

1 “(e) ANTIDUMPING AND COUNTERVAILING DU-
 2 TIES.—Whenever the International Trade Commission
 3 makes a final affirmative determination pursuant to sec-
 4 tion 705 or section 735 of the Tariff Act of 1930 (19
 5 U.S.C. 1671d or 1673d), the Commission shall imme-
 6 diately notify the Secretary of Labor and, in the case of
 7 an agricultural commodity, the Secretary of Agriculture,
 8 of that determination.”.

9 **SEC. 5. INDUSTRY-WIDE DETERMINATION.**

10 Section 223 of the Trade Act of 1974 (19 U.S.C.
 11 2273) is amended by adding at the end the following:

12 “(e) INVESTIGATION REGARDING INDUSTRY-WIDE
 13 CERTIFICATION.—If the Secretary receives a request or
 14 a resolution under section 221(c) on behalf of workers in
 15 a domestic industry or occupation (described in section
 16 221(c)(2)) or receives 3 or more petitions under section
 17 221(a) within a 180-day period on behalf of groups of
 18 workers in a domestic industry or occupation, the Sec-
 19 retary shall make an industry-wide determination under
 20 subsection (a) of this section with respect to the domestic
 21 industry or occupation in which the workers are or were
 22 employed. If the Secretary does not make certification
 23 under the preceding sentence, the Secretary shall make
 24 a determination of eligibility under subsection (a) with re-

1 spect to each group of workers in that domestic industry
 2 or occupation from which a petition was received.”.

3 **SEC. 6. COORDINATION WITH OTHER TRADE PROVISIONS.**

4 (a) INDUSTRY-WIDE CERTIFICATION BASED ON
 5 GLOBAL SAFEGUARDS.—

6 (1) RECOMMENDATIONS BY ITC.—

7 (A) Section 202(e)(2)(D) of the Trade Act
 8 of 1974 (19 U.S.C. 2252(e)(2)(D)) is amended
 9 by striking “, including the provision of trade
 10 adjustment assistance under chapter 2”.

11 (B) Section 203(a)(3)(D) of the Trade Act
 12 of 1974 (19 U.S.C. 2253(a)(3)(D)) is amended
 13 by striking “, including the provision of trade
 14 adjustment assistance under chapter 2”.

15 (2) ASSISTANCE FOR WORKERS.—Section
 16 203(a)(1)(A) of the Trade Act of 1974 (19 U.S.C.
 17 2253(a)(1)(A)) is amended to read as follows:

18 “(A) After receiving a report under section
 19 202(f) containing an affirmative finding regard-
 20 ing serious injury, or the threat thereof, to a
 21 domestic industry—

22 “(i) the President shall take all appro-
 23 priate and feasible action within his power;
 24 and

“(ii)(I) the Secretary of Labor shall certify as eligible to apply for adjustment assistance under section 223 workers employed in the domestic industry defined by the Commission if such workers become totally or partially separated, or are threatened to become totally or partially separated, not earlier than 1 year before, or not later than 1 year after, the date on which the Commission made its report to the President under section 202(f); and

“(II) in the case of a finding with respect to an agricultural commodity as defined in section 291, the Secretary of Agriculture shall certify as eligible to apply for adjustment assistance under section 293 agricultural commodity producers employed in the domestic production of the agricultural commodity that is the subject of the finding during the most recent marketing year.”.

(b) INDUSTRY-WIDE CERTIFICATION BASED ON BILATERAL SAFEGUARD PROVISIONS OR ANTIDUMPING OR COUNTERVAILING DUTY ORDERS.—

1 (1) IN GENERAL.—Subchapter A of chapter 1
2 of title II of the Trade Act of 1974 (19 U.S.C. 2271
3 et seq.) is amended by inserting after section 224
4 the following new section:

5 **“SEC. 224A. INDUSTRY-WIDE CERTIFICATION WHERE BILAT-**
6 **ERAL SAFEGUARD PROVISIONS INVOKED OR**
7 **ANTIDUMPING OR COUNTERVAILING DUTIES**
8 **IMPOSED.**

9 “(a) IN GENERAL.—

10 “(1) MANDATORY CERTIFICATION.—Not later
11 than 10 days after the date on which the Secretary
12 of Labor receives a notification with respect to the
13 imposition of a trade remedy, safeguard determina-
14 tion, or antidumping or countervailing duty deter-
15 mination under section 224 (a), (b), (c), (d), or (e),
16 the Secretary shall certify as eligible for trade ad-
17 justment assistance under section 223(a) workers
18 employed in the domestic production of the article
19 that is the subject of the trade remedy, safeguard
20 determination, or antidumping or countervailing
21 duty determination, as the case may be, if such
22 workers become totally or partially separated, or are
23 threatened to become totally or partially separated
24 not more than 1 year before or not more than 1 year
25 after the applicable date.

1 “(2) APPLICABLE DATE.—In this section, the
2 term ‘applicable date’ means—

3 “(A) the date on which the affirmative or
4 positive determination or finding is made in the
5 case of a notification under section 224 (a), (b),
6 or (d);

7 “(B) the date on which a final determina-
8 tion is made in the case of a notification under
9 section 224(e); or

10 “(C) the date on which additional duties
11 are assessed in the case of a notification under
12 section 224(c).

13 “(b) QUALIFYING REQUIREMENTS FOR WORKERS.—
14 The provisions of subchapter B shall apply in the case of
15 a worker covered by a certification under this section or
16 section 223(e), except as follows:

17 “(1) Section 231(a)(5)(A)(ii) shall be applied—

18 “(A) by substituting ‘30th week’ for ‘16th
19 week’ in subclause (I); and

20 “(B) by substituting ‘26th week’ for ‘8th
21 week’ in subclause (II).

22 “(2) The provisions of section 236(a)(1) (A)
23 and (B) shall not apply.”.

24 (2) AGRICULTURAL COMMODITY PRODUCERS.—

25 Chapter 6 of title II of the Trade Act of 1974 (19

1 U.S.C. 2401 et seq.) is amended by striking section
 2 294 and inserting the following:

3 **“SEC. 294. INDUSTRY-WIDE CERTIFICATION FOR AGRICUL-**
 4 **TURAL COMMODITY PRODUCERS WHERE**
 5 **SAFEGUARD PROVISIONS INVOKED OR ANTI-**
 6 **DUMPING OR COUNTERVAILING DUTIES IM-**
 7 **POSED.**

8 “(a) IN GENERAL.—Not later than 10 days after the
 9 date on which the Secretary of Agriculture receives a noti-
 10 fication with respect to the imposition of a trade remedy,
 11 safeguard determination, or antidumping or counter-
 12 vailing duty determination under section 224 (b), (c), or
 13 (e), the Secretary shall certify as eligible for trade adjust-
 14 ment assistance under section 293(a) agricultural com-
 15 modity producers employed in the domestic production of
 16 the agricultural commodity that is the subject of the trade
 17 remedy, safeguard determination, or antidumping or coun-
 18 tervailing duty determination, as the case may be, during
 19 the most recent marketing year.

20 “(b) APPLICABLE DATE.—In this section, the term
 21 ‘applicable date’ means—

22 “(1) the date on which the affirmative or posi-
 23 tive determination or finding is made in the case of
 24 a notification under section 224(b);

1 “(2) the date on which a final determination is
2 made in the case of a notification under section
3 224(e); or

4 “(3) the date on which additional duties are as-
5 sessed in the case of a notification under section
6 224(c).”.

7 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) TRAINING.—Section 236(a)(2)(A) is amend-
9 ed by striking “\$220,000,000, and inserting
10 “\$440,000,000”.

11 (2) TABLE OF CONTENTS.—The table of con-
12 tents for title II of the Trade Act of 1974 is amend-
13 ed—

14 (A) by striking the item relating to section
15 224 and inserting the following:

“Sec. 224. Notifications regarding affirmative determinations and safeguards.”;

16 (B) by inserting after the item relating to
17 section 224, the following:

“Sec. 224A. Industry-wide certification based on bilateral safeguard provisions
invoked or antidumping or countervailing duties imposed.”;

18 and

19 (C) by striking the item relating to section
20 294, and inserting the following:

“Sec. 294. Industry-wide certification for agricultural commodity producers
where safeguard provisions invoked or antidumping or counter-
vailing duties imposed.”.

1 **SEC. 7. REGULATIONS.**

2 The Secretary of the Treasury, the Secretaries of Ag-
3 riculture and Labor, and the International Trade Commis-
4 sion may promulgate such regulations as may be necessary
5 to carry out the amendments made by this Act.

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